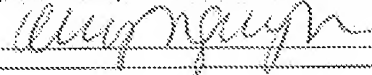


I hereby certify that this correspondence is being electronically transmitted to the USPTO on the date shown below.

Date: November 2, 2006

Signature: 

(Quyen Nguyen)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/776,570
Confirmation No.: 2768
Filing Date: February 11, 2004
Inventor(s): Thomas J. FOGARTY et al.
Title: VASCULAR FIXATION DEVICE AND METHOD
Examiner: P. Prebilic
Group Art Unit: 3738

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patent
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the restriction requirement set forth in the Office Action mailed September 6, 2006, for which a response was due October 6, 2006. Filed herewith is a Petition and fee for a 1-month extension of time, thereby extending the deadline for response to November 6, 2006. Accordingly, this response is timely filed.

Claims 1-50 were presented for examination at filing. A Requirement for Restriction was issued, setting out two groups of claims and four species sets. In response, Applicants hereby elect Group II (Claims 46-50). Applicants elect G.) Figure 10 from "Species Set 1 (fixation devices)"; X.) Figure 5 from "Species Set 2 (circumferential shape)"; iv.) Figure 23 from "Species Set 3 (legs)"; and 4.) Figure 45 from "Species Set 4".


Applicant disagrees with this restriction requirement and makes these elections with traverse. Because Group II is a group of method of use claims, Applicant disagrees that electing a single Species, as set forth by the Examiner, of the device to be used would be relevant to the restriction of the method claims. Further, additional disclosed options other

than those described by the examiner should be available, particularly with regard to species sets of the devices for the method claims. Applicant respectfully submits that numerous Species are generic to the elected claims. For example, Applicant submits that at least Figures 1-4, 10-12, 16, 22, 31-58, and 60-84 are generic to the elected claims.

Accordingly, Applicants believe that, in light of the election presented herein, claims 46-50 are presently under consideration. Applicants expressly reserve their right under 35 U.S.C. § 121 to file one or more divisional applications directed to the non-elected subject matter during the pendency of this application, or an application claiming priority from this application. Applicants respectfully request examination of the elected subject matter on the merits.

In the event the appropriate fee and/or petition is not filed herewith and the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with this filing to Deposit Account No. 50-3973 referencing Attorney Docket No. FGRTNZ00600. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,



David A. Levine
Registration No. 48,821

Customer No. 40518
Levine Bagade Han LLP
2483 East Bayshore Road, Suite 100
Palo Alto, CA 94303
Direct: (650) 242-4214
Fax: (650) 284-2180